

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Carrier Branch**

**RESOLUTION T-16705
February 13, 2003**

RESOLUTION

RESOLUTION T-16705. PACIFIC BELL TELEPHONE COMPANY (U-1001-C). REQUEST FOR AUTHORITY TO MAKE END USER COMMON LINE CHARGE OFFSET ADJUSTMENT TO BUSINESS LINES AND TRUNK LINES SERVICES.

BY ADVICE LETTER NOS. 23202 AND 23202A, FILED ON AUGUST 29, 2002 AND SEPTEMBER 18, 2002, RESPECTIVELY.

Summary

This Resolution authorizes Pacific Bell Telephone Company's (Pacific's) request in Advice Letter (AL) Nos. 23202 and 23202A to make End User Common Line (EUCL) charge offset adjustments to SuperTrunk service, but rejects Pacific's request to make EUCL charge offset adjustments to business single line, multi-line, and Private Branch Exchange (PBX) trunk services. This resolution also modifies the authority granted in AL No. 21111, limiting Pacific's authority to apply the EUCL charge offset to business individual line and business trunk line charges.

Background

In accordance with Part 69 of the Federal Communication Commission (FCC) rules, entitled Filing of Access Service Tariff, SBC Communication Inc., on behalf of Pacific, filed with FCC Transmittal Letter No. 74, dated June 17, 2002. This transmittal letter increased the EUCL charge from \$4.40 to \$4.48, effective July 2, 2002.

On August 29, 2002, Pacific filed AL No. 23202 to reflect changes to EUCL charge offsets for business single line, multi-line, PBX¹ trunk line and SuperTrunk² services.

¹ PBX is a private telephone switching system, usually located on a customer's premises. The system provides intra-premises exchange telephone service as well as access to the public exchange network and/or private facilities.

On September 18, 2002, Pacific filed supplement AL No. 23202A to correct the resale rates for Access Advantage. Access Advantage is a complete business solution for the small to mid-market business customer. Two options will be offered on a 36-month term commitment. Options include Single/Multi - Business lines and Centrex lines terminating at a single location. The previous filing, AL No. 23202, reflected an offset rate adjustment of \$.08 instead of a 17% discounted wholesale rate.

Notice/Protest

AL No. 23202 was filed on August 29, 2002, and appeared in the Commission Daily Calendar of September 11, 2002. AL No. 23202A was filed on September 18, 2002, and appeared in the Commission Daily Calendar of September 20, 2002. Pacific states that copies of AL Nos. 23202 and 23202A have been sent to interested utilities and/or parties. Telecommunications Division (TD) has received no protest to AL Nos. 23202 and 23202A.

Discussion

The FCC is responsible for authorizing the EUCL charge, as part of its comprehensive program governing how local telephone companies recover the costs of providing "local loops" and other facilities that link each telephone customer to the telephone network.

Decision (D.) 88-07-022 granted Pacific's request in Application (A.) 85-01-034 to offset changes in the EUCL charge applicable to Centrex³ service.

In support of its proposal in A. 85-01-034 to offset changes in the EUCL charge rates applicable to Centrex service, Pacific asserted that the rate difference was not cost based and established an artificial cost barrier which kept customers from adding new Centrex lines or commencing Centrex service, either of which would benefit Pacific's general body of ratepayers by providing a contribution of revenue over cost. In approving Pacific's EUCL charge offset proposal for Centrex, the Commission stated

² SuperTrunk service allows users to connect suitably equipped customer premises equipment to Pacific's central office switch over 1.544Mb digital High Capacity Service.

³ Centrex is a central office based business telecommunications system that permits customers to identify and select a variety of features to be deployed on stations. A Centrex business system consists of an access line, or loop, for each station on the system and both ordinary and special functions provided by Pacific's central office switch.

that it “viewed Centrex as a service which can provide a contribution to Pacific’s basic rates” and that Centrex “...provides a contribution over costs...”⁴

Pacific’s Centrex tariff currently states:

“Any change (increase or decrease) in the End User Common Line Access charge (EUCL) stated in Tariff F.C.C. No. 128, will be offset by a change in the Centrex Line rate in the same amount. The revenue requirement associated with the change will be recovered within the Centrex category as determined by the Utility with at least 40 days notice to the CPUC.”

The EUCL charge offset for SuperTrunk was authorized when SuperTrunk was introduced as a new product via AL No. 17685 and became effective on October 9, 1995. The SuperTrunk tariff contains similar language as that in the Centrex tariff with respect to the EUCL charge offset. Pacific’s business individual line and business trunk line services tariffs contain similar provisions concerning the EUCL charge offset pursuant to authority obtained as a result of AL No. 21111.

Pacific filed AL No. 21111 on April 10, 2000, requesting authority to apply the EUCL charge offset to business individual line and business trunk line services. AL No. 21111 stated that applying the EUCL charge offset to business individual line and business trunk line services would provide the same price stability as granted to Centrex and SuperTrunk lines, and benefit its customers by effectively eliminating rate fluctuations whenever periodic adjustments are made to the Federal EUCL. AL No. 21111 also stated that “*revenues are not affected*”, and became effective on May 20, 2000, establishing similar EUCL charge offset provisions in the PBX trunk line service and business service tariffs as those contained in the Centrex and SuperTrunk tariffs.

TD has reviewed Pacific’s AL Nos. 23202 and 23202A. TD notes that there is a large margin between price floor and price (tariff rate plus EUCL charge) of SuperTrunk service. Based on Pacific’s 2002 Price Floor Filing, the prices (tariff rate plus EUCL charge) customers pay for Centrex and SuperTrunk services are substantially above the Commission-approved price floors for these services. Thus, when changes to EUCL charges are adjusted by the EUCL charge offset, the amount customers pay for these services continues to be above their respective costs.

However, Pacific’s business individual line and business trunk line service prices (tariff rate plus EUCL charge) do not cover the respective costs of these services as reported in Pacific’s 2002 Price Floor Filing. Therefore, application of the EUCL charge offset to Pacific’s business individual line and business trunk line services effectively prevents revenues received for these Category II services from ever recovering the costs of these services that might otherwise be recovered if increases in EUCL charges were not offset.

⁴ D.88-07-022, 28 CPUC 2nd at 403.

Contrary to Pacific's representation in AL No. 21111, the application of the EUCL charge offset has a dollar-for-dollar effect on revenues. Each dollar adjustment resulting from the EUCL charge offset effectively prevents Pacific's revenues from increasing toward covering costs when revenues would otherwise increase as a result of EUCL charge increases.

Importantly, the EUCL charge offset adjustment requested in AL Nos. 23202 and 23202A serves to keep business individual line and business trunk line service prices (tariff rate plus EUCL charge) below their costs, contrary to Category II pricing rules established by this Commission. This means that revenues from other services (including above cost residential services) are subsidizing competitive business individual line and business trunk line service. Therefore, TD recommends that the Commission approve this filing only to make EUCL charge offset adjustment to SuperTrunk service, and to modify Pacific's request to make EUCL charge offset adjustments to business single line, multi-line, and PBX trunk service. Also, TD recommends that the Commission modify the authority granted in AL No. 21111 to authorize the application of the EUCL charge offset mechanism to below-cost business individual line and business trunk line services only when EUCL charges decrease.

TD recommends that Pacific file an advice letter supplement to AL Nos. 23202 and 23202A, to delete the EUCL charge offset adjustments for business single line, multi-line, and PBX trunk services.

When the authority granted in AL No. 21111 is modified, Pacific should file an advice letter to modifying related materials regarding the EUCL charge offset adjustments for business line, multi-line, and PBX trunk services in its tariff, including, but not limited to Schedules CAL. P.U.C. Nos. A5.2.1.A.9, A5.3.B.3, and 175-T (sections 18.3.2G and 18.6.2.A.1.f).

Finally, TD recommends against authorizing the application of the EUCL charge offset mechanism when EUCL charges increase for any service for which the price (tariff rate plus EUCL) is below the Commission approved price floor. Otherwise, the offset mechanism undermines the Commission's guiding principle that rates should be based on costs.⁵

We find TD's above recommendations reasonable. However, we are concerned with how future changes in the EUCL will impact loop-based services. Therefore, we reserve the right to reconsider and review costing and pricing issues related to subsequent EUCL changes where the cost of service may be dramatically affected.

Comments on Draft Resolution

⁵ Decision 94-09-065, 56 CPUC 2nd at 151.

The draft resolution of the TD in this matter was mailed to parties in accordance with PU Code §311 (g)(1). SBC California (referred to in this resolution by its former name “Pacific Bell” or “Pacific”) filed comments on the draft resolution on February 3, 2003.

Pacific disagrees with the recommendation to eliminate the EUCL offset for business single line, multi-line and PBX trunks, stating that the draft resolution erroneously rescinds the EUCL offset for these services. Pacific alleges that elimination of the offset for business single line, multi-line and PBX trunks would exacerbate the existing below-cost pricing problem for these services, thereby reducing incentives for competition. Pacific provides an example where the EUCL charge decreases, and in the absence of a countervailing offset, prices (tariff rate plus EUCL charge) for these services would fall further below cost with Pacific experiencing a net reduction in revenues.

Pacific’s argument is not entirely persuasive. Pacific has made certain adjustments to bring its single line and multi-line business EUCL charges into parity with each other by decreasing the multi-line business EUCL charge and increasing the single line business EUCL charge. This adjustment accounts for the current EUCL offset of “+ \$0.77” for the multi-line EUCL charge. However, Pacific has not otherwise reduced the EUCL charge for business lines or PBX trunks. On the other hand, Pacific has increased the single line business EUCL charge four times since March 2000, and increased the multi-line business EUCL charge once since its “parity adjustment” in August 2001.

Nevertheless, we recognize that Pacific may voluntarily or otherwise reduce its EUCL charges at some point in the future. While Pacific’s hypothetical example has not yet occurred and is perhaps unlikely, it is *possible* that Pacific’s EUCL charges could decrease. If this occurs, in the absence of a countervailing EUCL offset, prices (tariff rate plus EUCL charge) for business lines or PBX trunks would fall further below their reported costs. We find this scenario unacceptable in a competitive market where Pacific continues to possess market power. Thus, we conclude that, when EUCL charges *decrease*, the application of the EUCL offset to below-cost access lines is appropriate because it prevents the gap between price and reported cost for these below-cost access lines from increasing.

At the same time, we agree with TD that, where a EUCL charge *increase* might otherwise close the gap between price and cost, the offset mechanism prevents this from happening, keeping prices (tariff rate plus EUCL charge) for below-cost access lines permanently below their reported cost. Thus, we conclude that, when EUCL charges *increase*, the application of the EUCL offset to below-cost access lines is not appropriate because it prevents the gap between cost and price from closing.

Therefore, we accept Pacific’s recommendation concerning the EUCL offset for business single line, multi-line and PBX trunks in part, and reject Pacific’s recommendation in part. That is, we *authorize* the application of the EUCL offset to below-cost access lines (single line business, multi-line business and PBX trunks) when EUCL charges *decrease*,

but we *prohibit* the application of the EUCL offset to below-cost access lines when EUCL charges *increase*.

Our authorization and prohibition shall apply to the single line business, multi-line business and PBX trunks EUCL offset as currently tariffed (i.e., the existing EUCL offsets are “grandfathered” with respect to EUCL increases, but the EUCL offsets may be revised in response to EUCL decreases). Moreover, our prohibition on applying the EUCL offset is limited to single line business, multi-line business, PBX trunks or other below-cost access lines, but does not apply to Centrex, SuperTrunk or other above-cost access lines. Furthermore, our prohibition will not apply to single line business, multi-line business, PBX trunks or other access lines if and when the price (i.e., tariff rate plus EUCL charge) for access line service equals or exceeds the price floor for that access line service.

Commission approval is based on the specifics of this Advice Letter and does not establish a precedent for the contents of future filings.

Findings

1. The Federal Communication Commission (FCC) is responsible for authorizing the End User Common Line (EUCL) charge, as part of its comprehensive program governing how local telephone companies recover the costs of providing “local loops” and other facilities that link each telephone customer to the telephone network.
2. Effective July 2, 2002, Pacific Bell’s (Pacific’s) EUCL charge rate increased from \$4.40 to \$4.48.
3. Decision (D.) 88-07-022 granted Pacific’s request in A. 85-01-034 to offset changes in the EUCL charge applicable to Centrex service (the EUCL charge offset).
4. The EUCL charge offset for SuperTrunk became effective when SuperTrunk was introduced as a new product via AL No. 17685 on October 9, 1995.
5. On April 10, 2002, Pacific filed AL No. 21111, requesting authority to apply the EUCL charge offset to business line and PBX trunk line services. AL No. 21111 became effective May 20, 2000.
6. The Telecommunications Division (TD) has reviewed Pacific’s AL Nos. 23202 and 23202A and recommends that the Commission approve that part of Pacific’s request to adjust the EUCL charge offset applicable to SuperTrunk service and reject Pacific’s request to adjust the EUCL charge offset applicable to business line and PBX trunk line services.

7. There is a large margin between price floor and the price (tariff rate plus EUCL charge) of SuperTrunk service, but the prices (tariff rate plus EUCL charge) of business line and PBX trunk line service prices (tariff rate plus EUCL charge) do not cover the costs of these services as reported in Pacific's 2002 Price Floor Filing.
8. Contrary to Pacific's representation made in AL No. 21111, the application of the EUCL charge offset indeed has a dollar-for-dollar effect on revenues. Each dollar adjustment resulting from the EUCL charge offset effectively prevents Pacific's business line and PBX trunk line service revenues from increasing when revenues would otherwise increase as a result of EUCL charge increases.
9. The EUCL charge offset requested in AL Nos. 23202 and 23202A serves to keep business line and PBX trunk line service prices (tariff rate plus EUCL charge) below their costs, contrary to Category II pricing rules established by this Commission in D.94-09-065.
10. TD recommends that the Commission modify the authority granted in AL No. 21111 to authorize the application of the EUCL charge offset mechanism when EUCL charges decrease for business lines and PBX trunk line services.
11. TD recommends that the Commission prohibit the use of the EUCL charge offset mechanism when EUCL charges increase for any service for which the prices (tariff rate plus EUCL charge) are below the Commission-approved price floors.
12. We find TD's recommendations reasonable. However, we are concerned with how future changes in the EUCL will impact loop-based services. Therefore, we reserve the right to reconsider and review costing and pricing issues related to subsequent EUCL changes where the cost of service may be dramatically affected.

THEREFORE, IT IS ORDERED that:

1. Pacific is granted authority to make EUCL charge offset adjustment to SuperTrunk service in this filing. When EUCL charge changes, the EUCL charge adjustment will apply to prospective customers.
2. Pacific requests to make EUCL charge offset adjustments to business single line, multi-line, and PBX trunk services in this filing are denied.
3. The authority granted Pacific in AL No. 21111 is rescinded.
4. Within twenty days after the effective day of this resolution, Pacific shall file a supplement to AL Nos. 23202 and 23202A, to modify the EUCL charge offset

adjustment to apply to business single line, multi-line, and PBX trunk services only when EUCL charges decrease.

5. Within twenty days after the effective day of this resolution, Pacific shall file an advice letter to modify provisions in its tariffs, including, but not limited to Schedules CAL. P.U.C. Nos. A5.2.1.A.9, A5.3.B.3, and 175-T (sections 18.3.2G and 18.6.2.A.1.f), to permit the application of the EUCL charge offset adjustment mechanisms when EUCL charges decrease but not when EUCL charges increase for business line, multi-line, and PBX trunk services until the reported costs for these services are equal to or above the Commission-approved price floors .
6. Pacific AL No. 23202 and supplement and all accompanying tariff sheets shall be marked to show that they were authorized by Resolution No. T-16705 of the California Public Utilities Commission and its effective date.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 13, 2003. The following Commissioners approved it.

WILLIAM AHERN
Executive Director